

**UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA**

PREFERRED CAROLINAS REALTY, INC.,)	
)	
Plaintiff,)	Civil Action 1:13-cv-00181-TDS-LPA
)	
v.)	
)	
AMERICAN HOME REALTY NETWORK,)	
INC., D/B/A NEIGHBORCITY.COM,)	
)	
)	
Defendant.)	

**PLAINTIFF PREFERRED CAROLINAS REALTY, INC.'S MOTION TO COMPEL
PRODUCTION OF DOCUMENTS PRIOR TO DEPOSITION AND REQUEST FOR AN
EXPEDITED TELEPHONIC HEARING WITHOUT BRIEFING**

Plaintiff Preferred Carolinas Realty, Inc. ("Preferred Carolinas") hereby moves for an order compelling Defendant American Home Realty Network, Inc. to produce documents responsive to Preferred Carolinas' discovery requests by November 27, 2013. Preferred Carolinas also asks that the Court resolve this motion on an expedited basis without requiring Preferred Carolinas to file a formal brief. If the Court determines that oral argument is necessary, Preferred Carolinas asks that the Court order setting an expedited telephonic hearing on this request. In support of this motion, Preferred Carolinas states the following:

1. Preferred Carolinas served its document requests on AHRN on June 20, 2013.
2. By agreement, Defendant's responses were due after the Court issued a general protective order, which the Court issued on August 19, 2013. (Dkt. No. 26.)
3. Defendant served its written objections and responses to Preferred Carolinas' document requests on August 20, 2013.

4. To date, AHRN has produced only a small number of hardcopy documents. It has not produced any of its responsive electronic documents. Nor has it produced hardcopy documents responsive to most of Preferred Carolinas requests.

5. Discovery in this case closes on December 31, 2013.

6. Preferred Carolinas has tentatively scheduled to take Defendant's deposition on December 13, 2013.

7. To prepare for and take that deposition, Preferred Carolinas needs to receive Defendant's documents with sufficient time to review and analyze them for use at the deposition.

8. Defendant's counsel has suggested that Defendant's electronic production will consist of tens-of-thousands, and perhaps even hundreds-of-thousands, of documents.

9. As of November 20, 2013, Defendant's counsel stated that he could not provide a date by which Defendant would complete its document production. Nor could Defendant's counsel provide an estimate of that date. Instead, Defendant's counsel only committed to starting a rolling production by November 22, 2013.

10. To ensure that Preferred Carolinas receives Defendant's documents with sufficient time to review them and complete Defendant's deposition before the close of fact discovery on December 31, 2013, Preferred Carolinas respectfully requests that the Court enter an order compelling Defendant to complete its document production by November 27, 2013.

11. Scott E. Murray, counsel for Preferred Carolinas, hereby certifies that he personally consulted with one of the attorneys for Defendant (Russell Paige) and made diligent attempts to resolve the parties' differences with respect to this motion. On November 19, 2013, Mr. Murray participated in a telephone call with Mr. Paige. Mr. Murray asked Mr. Paige to commit to a date-certain for Defendant's document production to avoid a motion to compel, but

Mr. Paige said that he was unable to do so. Mr. Murray then confirmed the substance of this conversation in an email dated November 20, 2013. Mr. Murray also asked Mr. Paige to agree that this motion could be resolved by the Court without briefing during a 30 minute telephone call. Mr. Paige disagreed, stating that he believed that full briefing was necessary and that a one-hour telephone call would be sufficient.

WHEREFORE, Plaintiff Preferred Carolinas asks the Court to compel Defendant to complete its document production by November 27, 2013, without requiring Preferred Carolinas to file any additional briefing. If the Court believes that oral argument is necessary, Preferred Carolinas asks the Court to set an expedited telephonic hearing on this request.

A proposed order has been submitted.

Respectfully submitted,

/s/ Scott E. Murray
Robert D. MacGill (robert.macgill@btlaw.com)
Scott E. Murray (smurray@btlaw.com)
Barnes & Thornburg LLP
11 S. Meridian St.
Indianapolis, IN 46204
Telephone: (317) 236-1313
Facsimile: (317) 231-7433

/s/ Bryan T. Simpson
Bryan T. Simpson (bsimpson@tcdg.com)
NC Bar No. 20136
Teague, Campbell, Dennis & Gorham, LLP
Post Office Box 19207
Raleigh, NC 27619-9207
Telephone: (919) 873-0166
Facsimile: (919) 873-1814

Attorneys for Preferred Carolinas Realty, Inc.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing was electronically filed this 22nd day of November, 2013. Notice of this filing will be sent to all recipients listed below by operation of the Court's electronic filing system, which the parties may access through the Court's system.

CHRISTOPHER R. MILLER c.miller@neighborcity.com

DAVID MATTHEW WILKERSON dwilkerson@vwlawfirm.com

LARRY STEPHEN MCDEVITT lmcdevitt@vwlawfirm.com, dwilkerson@vwlawfirm.com,
hgoldstein@vwlawfirm.com, lpf@farkastoikka.com, sgarrett@vwlawfirm.com

RICHARD S. TOIKKA rst@farkastoikka.com

RUSSELL O. PAIGE rop@farkastoikka.com

s/Scott E. Murray _____